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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,109	01/17/2006	Calin Turcanu	60091.00441	2893
32294            7590            10/11/2007 SQUIRE, SANDERS & DEMPSEY L.L.P. 14TH FLOOR 8000 TOWERS CRESCENT TYSONS CORNER, VA 22182			EXAMINER LAM, DUNG LE	
		ART UNIT 2617		PAPER NUMBER
			MAIL DATE 10/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/560,109 Examiner Dung Lam	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)–(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The Information Disclosure Statement submitted on 12/9/05 has been considered by the examiner (see attached PTO-1449 form).

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19-20 rejected under 35 U.S.C. 101 because

The claims recites the program instructions, which are not claimed as embodied in a computer-readable media, are considered descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory (see page 53 of Interim Guideline).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 13 and 14, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 11-12, 15-16 and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by **Mathis** (US Patent Number 2003/0119540).

5. Regarding *claim 11*, **Mathis** teaches a method of making an ad-hoc group call in a subscriber device of a communications system, the method comprising storing a list of subscribers in a phonebook application in a subscriber device, storing presence information of the subscribers in the phonebook application ([0009]), said presence information including information on the availability of the subscribers for a group call ([0010-0013]), and in response to receiving, via a user interface from a user of the subscriber device (a group must inherently be selected in steps 420 to 440, otherwise the system does know which group is desired talk group since there is more than one group, [0018]), a group call activation with a selection of two or more subscribers from the phonebook, providing

appropriate signaling with a group communication service in a network infrastructure for establishing an ad-hoc group call consisting of the selected subscribers and the user of the subscriber device ([0004,0014-0018]).

6. Regarding claim 15 and 16, they are apparatus claims corresponding to claims 1-2. Therefore, they are rejected for the same reasons as claims 1-2.

7. Regarding *claim 18*, Mathis teaches a device according to claim 15, comprising the phonebook application being configured to display the list of subscribers on the user interface, the phonebook application being configured, in response to the user's selection of two or more subscribers from the list via the user interface, to display a group communications menu on the user interface, and the phonebook application being configured, in response to the user's selection of two or more subscribers from the list via the user interface and the user selecting a predetermined operation in the group communications menu or the user pressing a predetermined button, such as an off-hook button or a push-to-talk switch, to initiate establishment of an ad-hoc group including the user and the selected subscribers ([0004,0014-0018]).

8. Regarding claim 19, Mathis teaches a program comprising program code means that, when run in a processor of a subscriber device of a communication system, performs steps of storing a list of subscribers in a phonebook application in a subscriber device, storing presence information of the subscribers in the phonebook application, said presence information including information on the availability of the subscribers for a group call, and in response to receiving, via a user interface from a user of the subscriber device, a group call activation with a selection of two or more subscribers from the phonebook, providing appropriate signaling with a group communication service in a network infrastructure for

establishing an ad-hoc group call consisting of the selected subscribers and the user of the subscriber device ([0004,0014-0018]).

9. Regarding claim 20, Mathis teaches a storage medium comprising an executable program that includes a phonebook application routine configured to store a list of subscribers in a subscriber device of a communications system, and to store presence information of the subscribers in the phonebook application, said presence information including information on the availability of the subscribers for a group call, and a routine configured, in response to receiving, via a user interface from a user of the subscriber device, group call activation with a selection of two or more subscribers from the phonebook to provide an appropriate signaling with a group communication service in a network infrastructure for establishing an ac-hoc group call consisting of the selected subscribers and the user of the subscriber ([0004,0014-0018]).

10. Regarding claim 21, Mathis teaches a subscriber device for a mobile communication system, comprising a radio transceiver with a group communication capability, a memory containing a list of subscribers of a phonebook application ([009-0010]), and presence information of said subscribers, said presence information including information on the availability of the subscribers for a group call ([0010-0013]), a controller connected to a user interface from a user of the subscriber device via which a group call activation can be received with a selection of two or more subscribers from said list of the phonebook application, said controller being further connected to said transceiver to send via said transceiver to a group communication service in a network infrastructure an ad-hoc group call setup signaling for a call group consisting of the selected subscribers and the user of the subscriber device ([0014-0018], Fig. 4).

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11. Claim(s) 11, 15 and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Haims (US Pub Number 2003/0105820).

12. Regarding *claim 11*, Haims teaches a method of making an ad-hoc group call in a subscriber device of a communications system, the method comprising storing a list of subscribers in a phonebook application in a subscriber device, storing presence information of the subscribers in the phonebook application ([0128-0129]), said presence information including information on the availability of the subscribers for a group call ([0129]), and in response to receiving, via a user interface from a user of the subscriber device, a group call activation with a selection of two or more subscribers from the phonebook ([0091-0093]), providing appropriate signaling with a group communication service in a network infrastructure for establishing an ad-hoc group call consisting of the selected subscribers and the user of the subscriber device ([0092,0094-0095, 0130]).

13. Regarding *claim 15*, Haims teaches a subscriber device for a mobile communication system, comprising a talk group communication means, a phonebook application means storing a list of subscribers, the phonebook application means being configured to store presence information of the subscribers, said presence information including information on the availability of the subscribers for a group call ([0128-0129]), and means responsive to receiving, via a user interface from a user of the subscriber device, group call activation with a selection of two or more subscribers from the phonebook for providing appropriate signaling with a group communication service in a network infrastructure for establishing an ad-hoc group call consisting of the selected subscribers and the user of the subscriber device ([0091-0095, 0128-0130]).

14. Regarding *claim 21*, Haims teaches a subscriber device for a mobile communication system, comprising a radio transceiver with a group communication capability, a memory containing a list of subscribers of a phonebook application, and presence information of said subscribers, said presence information including information on the availability of the subscribers for a group call ([0128-0129, 0049]), a controller connected to a user interface

from a user of the subscriber device via which a group call activation can be received with a selection of two or more subscribers from said list of the phonebook application, said controller being further connected to said transceiver to send via said transceiver to a group communication service in a network infrastructure an ad-hoc group call setup signaling for a call group consisting of the selected subscribers and the user of the subscriber device ([091-0095,0128-0130]).

15. Regarding claims 19 and 20, they have the same limitations as claims 1 and 21, therefore they are rejected for the same reasons as claims 1 and 21.

16. Claim(s) 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by **Griffin** (US Patent Number 2004/0015553).

17. Regarding *claim 11*, **Griffin** teaches a method of making an ad-hoc group call in a subscriber device of a communications system, the method comprising storing a list of subscribers in a phonebook application in a subscriber device, storing presence information of the subscribers in the phonebook application ([0038, 0024-0027]), said presence information including information on the availability of the subscribers for a group call ([0010-0013]), and in response to receiving, via a user interface from a user of the subscriber device, a group call activation with a selection of two or more subscribers from the phonebook ([0040, 0041]), providing appropriate signaling with a group communication service in a network infrastructure for establishing an ad-hoc group call consisting of the selected subscribers and the user of the subscriber device ([0040, 0047, 0050]).

18. Regarding claim 12, **Griffin** teaches a method according to claim 11, comprising sending a speech item or a speech item request each time a talk activity is detected or indicated in the subscriber device during a call ([0040]).

#### *Claim Rejections - 35 USC § 103*

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claim(s) 13, 14 and 17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over **Mathis** (US Patent Number 2003/0119540).

21. Regarding claim 13, Griffin teaches a method according to claim 11, **Mathis** further teaches in response to the user's selection of two or more subscribers from the list via the user interface, displaying a group communications menu on the user interface, and establishing an ad-hoc group including the user and the selected subscribers in response to the user selecting a predetermined operation in the group communications menu or the user pressing a predetermined button, such as an off-hook button or a push-to-talk switch. However, he is silent on the opening an application in response to an input from the user interface. However, it is common sense in the art that some type of user interaction with the user interface must occur in order to bring up the phone book list. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to provide some input to the user interface to launch the phone book ([0014-0018], Fig. 4).

22. Regarding claim 14, it is similar in scope as claim 13, therefore it is rejected for the same reasons as claim 13.

23. Regarding claim 17, it is similar in scope as claim 13, therefore it is rejected for the same reasons as claim 13.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Lam whose telephone number is (571) 272-6497. The examiner can normally be reached on M - F 9 - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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